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Motorola, Inc.
Law Department - MD 1610
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Plantation, FL 33322
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25

Number of Pages (including this page)

Date: March 17, 2006
To Examiner: Vuong, Quochien B
Location: United States Patent and Trademark Office
Fax No.: Centralized Fax Number: 1 (571) 273-8300
From: Larry G. Brown - Registration No. 45,834
Attorney's Docket No. CE12442JME Confirmation No. 3815

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MESSAGE:

In connection with the above-identified Patent Application, please find attached herewith the following documents:

- 1 page Transmittal Form;
- 1 page Fee Transmittal (in duplicate);
- 2 pages Transmittal Letter for Appeal Brief (in duplicate);
- 17 pages Appeal Brief.

PLEASE DELIVER THESE PAPERS TO:

EXAMINER:	Vuong, Quochien B
GROUP ART UNIT:	2685
SERIAL NO.:	10/786,945
FILED:	February 24, 2004
INVENTOR:	JAMES L. TRACY, ET AL.

CERTIFICATE OF FAX TRANSMITTAL

I hereby certify that this correspondence is being facsimile to the United States Patent and Trademark Office, at (571) 273-8300 Centralized Facsimile, addressed to :Mail Stop: APPEAL BRIEF-PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date listed below:

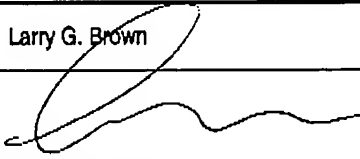
Date: March 17, 2006

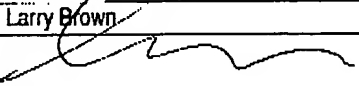
Signature: 

Printed Name: Larry Brown

TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/786,945	
	Filing Date	February 24, 2004	
	First Named Inventor	James L. Tracy	
	Group Art Unit	2685	
	Examiner Name	Vuong, Quochien B	
Total Number of Pages in this Submission	Attorney Docket Number	CE12442JME	

ENCLOSURES			(check all that apply)
<input checked="" type="checkbox"/> Fee Transmittal Letter <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-Related papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address _____ <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CDs	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter with appropriate copies <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below) <input checked="" type="checkbox"/> Transmittal Letter for Brief on Appeal <input type="checkbox"/> Associate Power of Attorney <input type="checkbox"/> RCE <input type="checkbox"/> Copy of Notice to File Missing Parts	
Remarks _____ <input checked="" type="checkbox"/> Facsimile Transmittal			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual	Larry G. Brown	Registration No.	45,834
Signature			
Date	March 17, 2006		

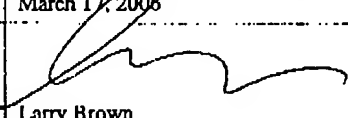
CERTIFICATE OF TRANSMITTAL/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to facsimile number <u>571-273-8300</u> or deposited with the United States Postal Service with sufficient postage thereon, as first-class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313 on the date listed below:	
Typed or printed name	Larry Brown
Signature	
Date	March 17, 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 17 2006

APPLICANT(S) James L. Tracy, et al. CONFIRMATION NO.: 3815
APPLN. NO.: 10/786,945 EXAMINER: Vuong, Quochien B
FILED: February 24, 2004 GROUP ART UNIT: 2685
DOCKET NO. CE12442JME
TITLE: INDEPENDENTLY ACTUATING ELECTRONIC COMPONENTS
AND METHOD OF OPERATING THEREFOR

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Date:	March 17, 2006
Signature: Typed or Printed Name:	 Larry Brown

TRANSMITTAL LETTER FOR BRIEF ON APPEAL

Mail Stop: **APPEAL BRIEF-PATENTS**
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed please find one copy of an Appeal Brief filed on behalf of the applicants in the matter of the above entitled application. This Brief is filed pursuant to 37 CFR § 1.192 and following the Final Rejection dated November 16, 2005 and the Notice of Appeal filed by Applicants on March 15, 2006.

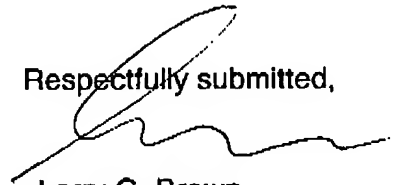
The Commissioner is authorized to charge the \$500.00 requisite fee for filing the enclosed Brief to Motorola, Inc., Deposit Account No. 502117. Any overpayment should be credit to the same Deposit Account.

SEND CORRESPONDENCE TO:

Motorola, Inc.

Customer Number: 24273

Respectfully submitted,




By: Larry G. Brown
Attorney of Record
Reg. No. 45,834
Telephone: (954) 723-4295
Fax No.: (954) 723-3871

MAR 17 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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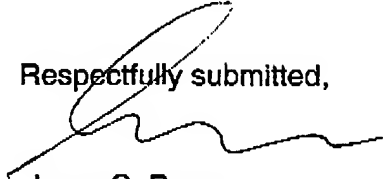
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No. 1551 P. 7

MAR 17 2006

FEE TRANSMITTAL Patent fees are subject to annual revision <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Complete if Known	
		Application Number	10/786,945
		Filing Date	February 24, 2004
		First Named Inventor	James L. Tracy
		Examiner Name	Vuong, Quochien B
		Group Art Unit	2685
		Attorney Docket No.	CE12442JME
TOTAL AMOUNT OF PAYMENT		(\$ 500.00)	

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)																																																																																																																																																												
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ADDITIONAL FEES <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Large Entity</th> <th>Small Entity</th> <th>Fee</th> <th>Fee</th> <th>Fee Description</th> </tr> <tr> <th>Code</th> <th>Code</th> <th>(\$)</th> <th>(\$)</th> <th></th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late Provisional filing</td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td></tr> <tr><td>1812</td><td>2520</td><td>1812</td><td>2520</td><td>For filing a request for ex parte Reexamination</td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td></tr> <tr><td>1805</td><td>1840*</td><td>1805</td><td>1840*</td><td>Requesting publication of SIR after Examiner action</td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td></tr> <tr><td>1252</td><td>430</td><td>2252</td><td>215</td><td>Extension for reply within second month</td></tr> <tr><td>1253</td><td>980</td><td>2253</td><td>490</td><td>Extension for reply within third month</td></tr> <tr><td>1254</td><td>1530</td><td>2254</td><td>765</td><td>Extension for reply within fourth month</td></tr> <tr><td>1255</td><td>2080</td><td>2255</td><td>1040</td><td>Extension for reply within fifth month</td></tr> <tr><td>1401</td><td>340</td><td>2401</td><td>170</td><td>Notice of Appeal</td></tr> <tr><td>1402</td><td>340</td><td>2402</td><td>170</td><td>Filing a brief in support of an appeal</td></tr> <tr><td>1403</td><td>300</td><td>2403</td><td>150</td><td>Request for oral hearing</td></tr> <tr><td>1451</td><td>1510</td><td>1451</td><td>1510</td><td>Petition to institute a public use proceeding</td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - unavoidable</td></tr> <tr><td>1453</td><td>1370</td><td>2453</td><td>685</td><td>Petition to revive - unintentional</td></tr> <tr><td>1501</td><td>1370</td><td>2501</td><td>685</td><td>Utility issue fee (or reissue)</td></tr> <tr><td>1502</td><td>490</td><td>2502</td><td>245</td><td>Design issue fee</td></tr> <tr><td>1503</td><td>680</td><td>2503</td><td>330</td><td>Plant issue fee</td></tr> <tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td></tr> <tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Processing fee under 37 CFR 1.17(k)</td></tr> <tr><td>1808</td><td>180</td><td>1808</td><td>180</td><td>Submission of IDS</td></tr> <tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td></tr> <tr><td>1809</td><td>790</td><td>2809</td><td>395</td><td>Filing a submission after final rejection (37 CFR § 1.129(a))</td></tr> <tr><td>1810</td><td>790</td><td>2810</td><td>395</td><td>For each additional invention to be examined (37 CFR § 1.129(b))</td></tr> <tr><td>1801</td><td>790</td><td>2801</td><td>395</td><td>Request for Continued Examination (RCE)</td></tr> <tr><td>1802</td><td>900</td><td>1802</td><td>900</td><td>Request for expedited examination of a design application</td></tr> <tr><td colspan="5">Other fee (specify) _____</td></tr> </tbody> </table>		Large Entity	Small Entity	Fee	Fee	Fee Description	Code	Code	(\$)	(\$)		1051	130	2051	65	Surcharge - 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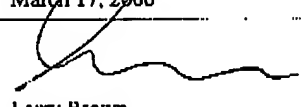
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Application No. 10/786,945
Appeal Brief dated March 17, 2006

CE12442JME

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: James L. Tracy ART UNIT: 2685
APPLN. NO.: 10/786,945 EXAMINER: Vuong, Quochien B
FILED: February 24, 2004
TITLE: INDEPENDENTLY ACTUATING ELECTRONIC COMPONENTS AND
METHOD OF OPERATING THEREFOR

CERTIFICATE OF FAX TRANSMITTAL	
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Date:	March 17, 2006
Signature: Typed or Printed Name:	 Larry Brown

APPEAL BRIEF

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Attention: Board of Patent Appeals and Interferences

Dear Chief Administrative Patent Judge:

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This Appeal Brief is in furtherance of the Notice of Appeal, transmitted via facsimile on March 15, 2006.

The fees required under 37 C.F.R. § 1.17(c) for filing this Appeal Brief have been authorized in the accompanying forms.

This brief is being transmitted by facsimile pursuant to 37 C.F.R. § 1.6(d).

This brief contains items under the headings listed in the following Table of Contents, as set forth in 37 C.F.R. § 1.192(c).

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I. REAL PARTY IN INTEREST

The real party of interest is Motorola, Inc., a Delaware corporation.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

This is an appeal from the final rejection of claims 1-20 of the above-referenced application.

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

There are a total of 20 claims in the application.

B. STATUS OF ALL THE CLAIMS

1. Claims allowed: none
2. Claims objected to: none
3. Claims rejected: 1-20

C. CLAIMS ON APPEAL

The claims on appeal are: 1-20.

IV. STATUS OF AMENDMENTS

A Final Rejection was mailed on November 16, 2005 in response to an Amendment filed on August 31, 2005. The Amendment and arguments were considered by the Examiner but were rejected. Applicants faxed a Notice of Appeal

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on March 15, 2006. This Appeal Brief is submitted in support of the Notice of Appeal.

V. SUMMARY OF THE CLAIMED INVENTION

Although specification citations are inserted below in accordance with C.F.R. 1.192(c), these reference numerals and citations are merely examples of where support may be found in the specification for the terms used in this section of the brief. There is no intention to in any way suggest that the terms of the claims are limited to the examples in the specification. Although, as demonstrated by the reference numerals and citations below, the claims are fully supported by the specification as required by law, it is improper under the law to read limitations from the specification into the claims. Pointing out specification support for the claim terminology, as is done here to comply with rule 1.192(c), does not in any way limit the scope of the claims to those examples from which they find support. Nor does this exercise provide a mechanism for circumventing the law precluding reading limitations into the claims from the specification. In short, the reference numerals and specification citations are not to be construed as claim limitations or in any way used to limit the scope of the claims.

The claimed subject matter pertains to an electronic product (10) that includes an electronic host device (12) and at least one peripheral device (30) (see FIG. 1 and paragraph 0014). The peripheral device (30) selectively couples and

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decouples to the electronic host device (12) and activates independently of the electronic host device (12) when decoupled from the electronic host device (12) (see paragraph 0005). In addition, the peripheral device (30) activates and operates independently of other peripheral devices (30) that selectively couple and decouple to the electronic host device (12) (see paragraph 0005). The peripheral device (30) can include a portable power source (36) and an interface block (46) for interfacing with the electronic host device (12) (see paragraph 0016). Moreover, the peripheral device (30) can disengage from a docked position with the electronic host device (12) and can activate and initiate a wireless link between it and the host device (12) to facilitate the transmission of data between the peripheral device (30) and the host device (12) (see paragraph 0016).

VI. ISSUES ON APPEAL

Whether claims 1-20 are patentable under 35 U.S.C. 103(a) over U.S. Patent No. 5,797,102 to Hallikainen, et al. (Hallikainen) in view of U.S. Patent Application Publication No. 2002/0132585 to Palermo, et al. (Palermo).

VII. GROUPING OF CLAIMS

For purposes of this Appeal, the Applicants present the following grouping of claims:

1. Claims 1-8 are a group, with the appeal as to the ground of rejection being based on claim 1.

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2. Claim 9 is another group, with the appeal as to the ground of rejection being based on claim 9.

3. Claims 10-15 are part of another group, with the appeal as to the ground of rejection being based on claim 10.

4. Claims 16-20 are part of another group, with the appeal as to the ground of rejection being based on claim 16.

VIII. ARGUMENT

The recitations of Hallikainen and Palermo do not render the invention of claims 1, 9, 10 and 16 unpatentable.

A summary of the Hallikainen and Palermo references may be helpful here. Hallikainen describes an arrangement for adapting the signal level in mobile phones according to the related auxiliary device connected to the mobile phone (see Abstract). Hallikainen never describes any of these auxiliary devices as having portable power supplies, and in fact, the types of devices that this reference refers to are those that include receptacles for coupling to an AC-powered wall outlet, such as a hand-held telephone, a data modem or a telefax device (see col. 3, lines 56-59). These auxiliary devices operate irrespective of the coupling between the devices and the mobile unit.

While Hallikainen does note that the auxiliary device may also be an earpiece or a hands-free unit (see col. 3, lines 56-59), Hallikainen explains that

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these types of devices are "passive auxiliaries" that do not include any control electronics (see col. 3, lines 20-22). In particular, Hallikainen presents a hook-line arrangement, as shown in FIG. 3, to enable the microprocessor of the mobile phone to identify the passive auxiliary device (see also col. 2, line 52 to col. 3, line 22). It is understood that a passive auxiliary device, as set forth in Hallikainen, will not operate when it is removed from the mobile phone.

Palermo describes a wireless communication system that includes a cellular phone device and a headset, which is worn by a user to communicate with a remote party over one or multiple wireless links (see paragraph 0049). An inductive link supports communications between the headset and the cell phone, while an RF link supports communication between the cell phone and a base station (see paragraph 0049). In particular, a base transceiver can communicate with the headset over the inductive link (see FIG. 1 and paragraph 0051). The headset includes a power source to enable its operation (see FIG. 2). Removing the headset from a docking station can cause either the headset or the base transceiver to become powered and establish a communications link (see paragraph 0148).

The best defense against hind-sight based obviousness analysis is the rigorous application of the requirement for a showing of a teaching, or motivation to combine the prior art references. Ecolochem v. Southern California Edison Co., 227

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F.3d 1361, 1371 (Fed. Cir. 2000). "Combining prior art references without evidence of such a suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight," Id. at 1371-1372.

Independent claims 1, 9, 10 and 16 of the present invention recite the element of at least one peripheral device that selectively couples and decouples to the electronic host device and activates independently of the electronic host device when decoupled from the electronic host device. In rejecting these claims, the Examiner correctly notes that Hallikainen does not disclose activating the peripheral device independently of the electronic host device when decoupled from the electronic host device. The Examiner, however, contends that it would have been obvious to one of skill in the art to combine the teaching of Palermo for activating independently the peripheral device from the host device when decoupled from the host device with the electronic product of Hallikainen. To support his position, the Examiner remarks that this would simplify the activation of the peripheral device as suggested by Palermo.

Applicants respectfully disagree with the Examiner's position, as Applicants contend that there is simply no suggestion or motivation to combine the teachings of Palermo with the electronic product of Hallikainen. As noted above, Hallikainen never mentions anything about independently activating a peripheral device when

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that peripheral device is decoupled from the host device. In particular, the auxiliary devices described in Hallikainen either rely on AC-power sources, such as wall outlets, or simply have no control electronics, which means that they do not have or require their own power sources to operate. When decoupled from the mobile phone, the auxiliary devices of Hallikainen will either *remain* activated or deactivated - as in the case of the auxiliary device being powered from a wall unit – or will stop operating – as in the case of a passive auxiliary.

In fact, Hallikainen teaches away from the process of activating the auxiliary devices when decoupled from the mobile phone. Specifically, it would be prohibitively expensive and wasteful to accommodate an auxiliary device that receives its power from a wall unit with a portable power source and activation circuitry that would be necessary to enable the device to activate when decoupled from the mobile phone. Additionally, Hallikainen teaches away from incorporating this element into the passive auxiliary devices that it describes in view of the special hook-line arrangement specifically designed for such devices. To do so would defeat the very purpose of this hook-line configuration expressly developed for the passive auxiliary devices.

Based on the discussion above, Applicants submit that there is no motivation or suggestion to combine the Hallikainen and Palermo references. As such, Applicants submit that the obviousness rejections of independent claims 1, 9, 10

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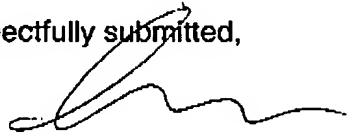
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and 16 are improper and that these claims are patentable over the prior art. In addition, Applicants submit that the claims that depend from these independent claims are patentable over the prior art, both in view of their dependencies on the independent claims and their own independent patentability.

Conclusion

For the claims to be unpatentable under § 103(a), there must be some motivation or suggestion to combine the cited prior art references, a standard that is to be rigorously applied. Because there is no motivation or suggestion to implement the activation feature of Palermo into the teachings of Hallikainen – in fact, Hallikainen teaches away from such a feature – Applicants submit that the claims on appeal are patentable. For the reasons set forth above, and as is apparent from a review of the above-cited references, the claims on appeal present patentable subject matter such that reversal of the rejection is appropriate.

Respectfully submitted,

By: 
Larry G. Brown March 17, 2006

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IX. CLAIMS APPENDIX

1. (previously presented) An electronic product, comprising:
an electronic host device; and
at least one peripheral device that selectively couples and decouples to the electronic host device and activates independently of the electronic host device when decoupled from the electronic host device and further activates and operates independently of other peripheral devices that selectively couple and decouple to the electronic host device.
2. (previously presented) The electronic product of claim 1, wherein the electronic product further comprises a means for wearing the electronic product, wherein the means is on the electronic host device or the at least one peripheral device.
3. (original) The electronic product of claim 1, wherein the at least one peripheral device activates automatically upon being decoupled from the electronic host device.
4. (original) The electronic product of claim 1, wherein the at least one peripheral device activates independently of any other peripheral device for the electronic host device.

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5. (original) The electronic product of claim 1, wherein the at least one peripheral device automatically senses the need for its own power source to become active when selectively decoupled from the electronic host device.
6. (original) The electronic product of claim 1, wherein the at least one peripheral device automatically senses the need for activating a new wireless link to the electronic host device using its own power source when selectively decoupled from the electronic host device.
7. (original) The electronic product of claim 1, wherein the at least one peripheral device can be selected among the group of peripherals comprising an earpiece, a display, a microphone, a user interface, a keyboard, a phone, a pager, a personal digital assistant, a camera, a watch, a computer, a receiver, and a transmitter.
8. (original) The electronic product of claim 7, wherein any combination of peripheral devices operates concurrently and independently with their own separate relationship to the electronic host device.
9. (previously presented) An electronic host device forming a portion of an

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electronic product, comprising:

a power source;

at least one port for receiving at least two peripheral devices that independently and selectively couple and decouple to the electronic host device and activate independently of the electronic host device and other peripheral devices when decoupled from the electronic host device.

10. (previously presented) A peripheral device forming an electronic product in conjunction with an electronic host device, comprising:

a power source;

a port for coupling with at least one electronic host device, wherein the peripheral devices selectively couple and decouple to the at least one electronic host device and activates independently of the electronic host device when decoupled from the electronic host device and other peripheral devices that work in conjunction with the electronic host device.

11. (original) The peripheral device of claim 10, wherein the peripheral device activates automatically upon being decoupled from the electronic host device.

12. (original) The peripheral device of claim 10, wherein the peripheral device

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automatically senses the need for its own power source to become active when selectively decoupled from the electronic host device.

13. (original) The peripheral device of claim 10, wherein the peripheral device automatically senses the need for activating a new wireless link to the electronic host device using its own power source when selectively decoupled from the electronic host device.

14. (original) The peripheral device of claim 10, wherein the peripheral device can be selected among the group of peripherals comprising an earpiece, a display, a microphone, a user interface, a keyboard, a phone, a pager, a personal digital assistant, a camera, a watch, a computer, a receiver, and a transmitter.

15. (original) The peripheral device of claim 14, wherein any combination of peripheral devices operates concurrently and independently with their own separate relationship to the electronic host device.

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16. (original) A method of operating at least one peripheral device independently from an electronic host device, comprising the steps of:

powering the electronic host device and the at least one peripheral device using a power source for the electronic host device when the at least one peripheral device is coupled to the electronic host device;

detecting a selective decoupling of the at least one peripheral device from the electronic host device;

powering the electronic host device using the power source for the electronic host device and independently powering the at least one peripheral device with a power source for the at least one peripheral device in response to detecting the selective decoupling; and

activating the peripheral device independently of any other peripheral device coupled to at least one among the electronic host device and the peripheral device.

17. (previously presented) The method of claim 16, wherein the method further comprises the step of wearing the at least one peripheral device or the electronic host device on a user.

18. (original) The method of claim 16, wherein the method further comprises the step of automatically activating the peripheral device upon being decoupled from

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the electronic host device.

19. (original) The method of claim 16, wherein the method further comprises the step of activating a new wireless link between the electronic host device and the at least one peripheral device in response to detecting the selective decoupling from the electronic host device.

20. (original) The method of claim 16, wherein the method further comprises the step of operating any combination of peripheral devices concurrently and independently with their own separate relationship to the electronic host device.